

E.D.Pa. AO Pro Se 14 (Rev. 01/21) Complaint for Violation of Civil Rights

UNITED STATES DISTRICT COURT

for the

Eastern District of Pennsylvania

FRANK NICOLOUDAKIS, pro se

Case No. _____

(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

COMMONWEALTH OF PENNSYLVANIA, ET AL

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should not contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include only: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

The Clerk will not file a civil complaint unless the person seeking relief pays the entire filing fee (currently \$350) and an administrative fee (currently \$52) in advance, or the person applies for and is granted in forma pauperis status pursuant to 28 U.S.C. § 1915. A prisoner who seeks to proceed in forma pauperis must submit to the Clerk (1) a completed affidavit of poverty and (2) a copy of the trust fund account statement for the prisoner for the six month period immediately preceding the filing of the complaint, obtained from and certified as correct by the appropriate official of each prison at which the prisoner is or was confined for the preceding six months. See 28 U.S.C. § 1915(a)(2).

If the Judge enters an order granting a prisoner's application to proceed in forma pauperis, then the order will assess the filing fee (currently \$350) against the prisoner and collect the fee by directing the agency having custody of the prisoner to deduct an initial partial filing fee equal to 20% of the greater of the average monthly deposits to the prison account or the average monthly balance in the prison account for the six-month period immediately preceding the filing of the complaint, as well as monthly installment payments equal to 20% of the preceding month's income credited to the account for each month that the balance of the account exceeds \$10.00, until the entire filing fee has been paid. See 28 U.S.C. § 1915(b). A prisoner who is granted leave to proceed in forma pauperis is obligated to pay the entire filing fee regardless of the outcome of the proceeding, and is not entitled to the return of any payments made toward the fee.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name	FRANK NICOLOUDAKIS		
All other names by which you have been known:			
ID Number			
Current Institution			
Address	5 TODD LN		
	EWING	NJ	08638
	<i>City</i>	<i>State</i>	<i>Zip Code</i>

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. Make sure that the defendant(s) listed below are identical to those contained in the above caption. For an individual defendant, include the person's job or title (*if known*) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name	JUDICIARY OF PENNSYLVANIA		
Job or Title (<i>if known</i>)			
Shield Number			
Employer			
Address			
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
<input type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

Defendant No. 2

Name	BUCKS COUNTY DISTRICT ATTORNEY		
Job or Title (<i>if known</i>)			
Shield Number			
Employer			
Address			
	<i>City</i>	<i>State</i>	<i>Zip Code</i>
<input type="checkbox"/> Individual capacity <input checked="" type="checkbox"/> Official capacity			

NICOLOUDAKIS v. COMMONWEALTH OF PENNSYLVANIA

ADDENDUM TO 1983 ACTION DUE TO PRINTER AND
OR COMPUTER NOT BEING ABLE TO REFLECT ALL ENTRIES

II. BASIS FOR JURISDICTION P. 3 OF CIVIL SUIT INCLUDE

SECTION B P. 3 OF THE 1983 CIVIL ACTION:

- IMPOSING MORE COSTS ON APPEAL (AFTER CONVICTION) THAN
IN GUILTY PLEA BEFORE THE DISTRICT JUDGE
- PROCEDURAL ROADBLOCKS PREVENTED CONSIDERATION
OF MEDICAL DOCUMENTATION
- COURT REFUSAL TO ADJOURN TRIAL WHICH FELL ON
ORTHODOX GOOD FRIDAY IN APRIL 2022

SECTION D. P. 4 OF THE 1983 CIVIL ACTION

- COURT SYSTEM DENIES CONSIDERATION OF A FALSE ARREST
FOR A CRIME BECAUSE THE CHARGE IS WITHDRAWN AND
THERE IS CONVICTION [HERE A SUMMARY OFFENSE]
- BLOCKED FROM EFFECTIVE CROSS-EXAMINATION OF
THAT FALSE ARREST ON THE GROUNDS THAT THE DUI
WAS WITHDRAWN DESPITE THE TRAFFIC VIOLATION
BEING INTERTWINED WITH THE ARREST ON D.U.I.
- ACCORDING TO THE COURT RULES, ONCE A CHARGE
IS WITHDRAWN, DEFENDANT IS NOT ACCORDED THE
RIGHT TO EFFECTIVELY CROSS-EXAMINE HIS/HER
ACCUSER ON THE DISMISSED CHARGE

Plaintiff, Frank Nicoloudakis is a disabled federal employee.

Sincerely,


Frank Nicoloudakis

E.D.Pa. AO Pro Se 14 (Rev. 01/21) Complaint for Violation of Civil Rights

Defendant No. 3

Name

Job or Title (if known)

Shield Number

Employer

Address

UPPER MAKEFIELD POLICE DEPARTMENT

City

State

Zip Code

☐

Individual capacity

☒

Official capacity

Defendant No. 4

Name

Job or Title (if known)

Shield Number

Employer

Address

City

State

Zip Code

☐

Individual capacity

☐

Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐Federal officials (a *Bivens* claim)☒

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

- INTERFERENCE WITH EFFECTIVE CROSS-EXAMINATION OF D.U.I. ARREST & MOTIVE
- DENYING MORAL RESPONSIBILITY TO REIMBURSE \$260. FOR IMPOUNDING OF VEHICLE
- DENYING RESTORATIVE JUSTICE TO REIMBURSE \$260. FOR WRONGFUL IMPOUND
- FALSE ARREST FOR CRIME OF D.U.I. BY AN OVERZEALOUS SMALL TOWN COP
- EXALTING PROCEDURAL DUE PROCESS OVER SUBSTANTIVE DUE PROCESS
- IMPOSING MORE COSTS ON APPEAL (AFTER CONVICTION) THAN IN CHITTY PLEA BEFORE

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.
- D.A. OBJECTED TO CROSS-EXAMINATION OF ARRESTING COP AS TO WHY HE ASKED PLAINTIFF TO EXIT HIS VEHICLE. COURT SUSTAINED OBJECTION.
 - PLAINTIFF HAMSTRUNG FROM HAVING ADMITTED EXCULPATORY MEDICAL EVIDENCE WHICH MAY HAVE EXONERATED PLAINTIFF OF TRAFFIC VIOLATION
 - COURT SYSTEM DENIES CONSIDERATION OF A FALSE ARREST FOR A CRIME BECAUSE ~~THE CHARGE IS WITHDRAWN AND THERE IS NO CONVICTION HERE A SUMMARY OFFENSE~~

III. Prisoner Status

Indicate whether you are a prisoner or other confined person as follows (check all that apply):

- ☐ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee
- ☒ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner
- ☒ Other (explain) MUST PAY FINES & COSTS OR FACE SUSPENSION OF DRIVERS LICENSE AND

IV. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. If the events giving rise to your claim arose outside an institution, describe where and when they arose.
 THE NIGHT OF AUGUST 26, 2021, PLAINTIFF WAS ARRESTED FOR D.U.I. BY OVERZEALOUS SMALL TOWN COP. DESPITE LAB REPORT BEING NEGATIVE, COP REFUSED TO DROP THE CASE. AT TRIAL IN COMMON PLEAS COURT, PLAINTIFF WAS HAMSTRUNG FROM MAKING EFFECTIVE CROSS-EXAMINATION AS TO HIS MOTIVE FOR HAVING HIM EXIT HIS VEHICLE. MEDICAL EVIDENCE SHOWING EXCULPATORY REASON FOR CROSSING MIDDLE LINE WAS
- B. If the events giving rise to your claim arose in an institution, describe where and when they arose.

- C. What date and approximate time did the events giving rise to your claim(s) occur?
 THE NIGHT OF THE FALSE D.U.I. ARREST WAS AUGUST 26, 2021 AFTER 9 PM
 THE TRIAL IN COMMON PLEAS COURT ON APRIL 22, 2022.
 THE SUPERIOR COURT OPINION OF THE APPEAL FILED JULY 5, 2023

- D. What are the facts underlying your claim(s)? *(For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)*
 BLOOD DRAWN WITHOUT A WARRANT UNDER DURESS [THREAT OF HAVING PENNDOT
 SUSPEND DRIVERS LICENSE FOR ONE YEAR IF REFUSED]
 SUBJECTED TO INCOMPETENT MEDICAL PERSON WHO TREATED PLAINTIFFS ARM LIKE A
 PIN CUSHION.
 HAD TO SIT ON MY HANDCUFFED HANDS ON HARD PLASTIC SEAT WHILE TRANSPORTED
 BLOCKED FROM HAVING MEDICAL DOCUMENTATION ADMITTED OR CONSIDERED AT TRIAL

V. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

- EXTREME PSYCHOLOGICAL TRAUMA OF BEING ARRESTED AND CHARGED WITH A CRIME WHICH LACKED SUFFICIENT PROBABLE CAUSE
- PAIN IN WRISTS AND HANDS BY BEING COMPELLED TO SIT ON THEM WHILE HANDCUFFED
- TOLD PSYCHO THERAPIST OF THIS EXPERIENCE.
- SIGNIFICANT ANXIETY AND STRESS OVER BEING FALSELY ACCUSED OF A CRIME, NOT KNOWING WHETHER THE BLOOD SAMPLE TAKEN WOULD SHOW A FALSE POSITIVE

VI. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

- RESTORATION OF \$260. PAID TO RECLAIM AUTOMOBILE IMPOUNDED WHEN FALSELY ACCUSED OF D.U.I.
- COMPENSATORY DAMAGES FOR \$260. PAID FOR IMPOUND AND OTHER COSTS
- PUNITIVE DAMAGES FOR:
 - NOT EXERCISING MORAL RESPONSIBILITY TO PAY THE \$260.
 - NOT EXERCISING THE DISCRETION TO DROP THE ENTIRE CASE

VII. Exhaustion of Administrative Remedies Administrative Procedures

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted."

Administrative remedies are also known as grievance procedures. Your case may be dismissed if you have not exhausted your administrative remedies.

- A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

☐ Yes

☒ No

If yes, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

- B. Does the jail, prison, or other correctional facility where your claim(s) arose have a grievance procedure?

☐ Yes

☒ No

☐ Do not know

- C. Does the grievance procedure at the jail, prison, or other correctional facility where your claim(s) arose cover some or all of your claims?

☐ Yes

☐ No

☐ Do not know

If yes, which claim(s)?

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose concerning the facts relating to this complaint?

☐ Yes

☒ No

If no, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

☐ Yes

☒ No

E. If you did file a grievance:

1. Where did you file the grievance?

2. What did you claim in your grievance?

3. What was the result, if any?

4. What steps, if any, did you take to appeal that decision? Is the grievance process completed? If not, explain why not. *(Describe all efforts to appeal to the highest level of the grievance process.)*

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:
WAS NEVER INCARCERATED FOR THIS FALSE ARREST

2. If you did not file a grievance but you did inform officials of your claim, state who you informed, when and how, and their response, if any:

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies.

(Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.)

VIII. Previous Lawsuits

The "three strikes rule" bars a prisoner from bringing a civil action or an appeal in federal court without paying the filing fee if that prisoner has "on three or more prior occasions, while incarcerated or detained in any facility, brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury." 28 U.S.C. § 1915(g).

To the best of your knowledge, have you had a case dismissed based on this "three strikes rule"?

☐ Yes

☒ No

If yes, state which court dismissed your case, when this occurred, and attach a copy of the order if possible.

E.D.Pa. AO Pro Se 14 (Rev. 01/21) Complaint for Violation of Civil Rights

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

☐ Yes

☐ No

- B. If your answer to A is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition. _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

- C. Have you filed other lawsuits in state or federal court otherwise relating to the conditions of your imprisonment?

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☐ Yes

☐ No

D. If your answer to C is yes, describe each lawsuit by answering questions 1 through 7 below. *(If there is more than one lawsuit, describe the additional lawsuits on another page, using the same format.)*

1. Parties to the previous lawsuit

Plaintiff(s) _____

Defendant(s) _____

2. Court *(if federal court, name the district; if state court, name the county and State)*

3. Docket or index number

4. Name of Judge assigned to your case

5. Approximate date of filing lawsuit

6. Is the case still pending?

☐ Yes

☐ No

If no, give the approximate date of disposition _____

7. What was the result of the case? *(For example: Was the case dismissed? Was judgment entered in your favor? Was the case appealed?)*

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Zip Code

Zip Code

E-mail Address

2023 AUG 26 PM 7:10
USDC-EDPA REC'D CLERK

**THE HONORABLE
U.S. DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA
601 MARKET ST.
PHILADELPHIA, PA.**

2023 AUG 26 PM 7:11
USDC-EDPA REC'D CLERK

NICOLOUDAKIS v. COMMONWEALTH OF PENNSYLVANIA et al

**MOTION TO WAIVE ALL FEES AND
COSTS CONNECTED WITH THIS
1983 ACTION**

PLAINTIFF, FRANK NICOLOUDAKIS, pro se, hereby implores the Honorable U.S. Court for the Eastern District of Pennsylvania to waive all fees relative to this case for good cause shown. To wit, when this case was taken on direct appeal in Bucks County, the Honorable Wallace H. Bateman Jr. on December 15, 2021 did grant IFP to plaintiff to pursue state appeal. A copy of the court order granting IFP is herewith attached.

I CERTIFY that my financial situation has not improved since then. The payment of the filing fees and/or costs would pose an excessive hardship. Signed,

F. Nicoloudakis

Frank Nicoloudakis
5 Todd Ln
Ewing, N. J. 08638

IN THE COURT OF COMMON PLEAS OF BUCKS COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

COMMONWEALTH OF PENNSYLVANIA

: No. CP-09-MD-0002729-2021

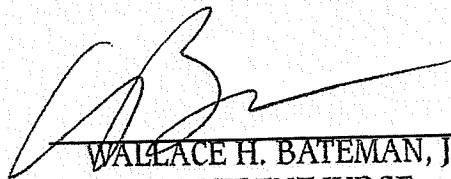
vs.

FRANKLIN D. NICOLOUDAKIS

ORDER

AND NOW, this 15th day of December, 2021, upon
consideration of the within application, defendant's petition to proceed *in forma
pauperis* is hereby approved.

BY THE COURT:


WALLACE H. BATEMAN, JR.
PRESIDENT JUDGE

N.B. It is your responsibility
to notify all interested parties
of the above action.



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2023 AUG 26 PM7:12
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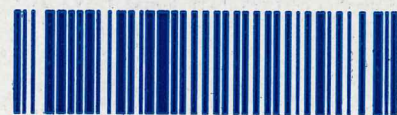
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EP14F July 2022
OD: 12 1/2 x 9 1/2

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